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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/483,277	01/13/2000	Ronald A. Katz	249/178 6646-114N7	8176

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EXAMINER

WOO, STELLA L

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 12/09/2003

35

Please find below and/or attached an Office communication concerning this application or proceeding.

TS

Office Action Summary

Application No.

09/483,277

Applicant(s)

KATZ, RONALD A.

Examiner

Stella L. Woo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 28 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 47-61 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 47-61 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

DETAILED ACTION

Terminal Disclaimer

1. The terminal disclaimer filed on September 26, 2003 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 6,335,965 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 50-61 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention for the same reasons given in the last Office action.

Independent claim 50 recites "testing at least certain of said data entered by said individual caller to determine if the individual is calling for a first time or to determine if a caller's status reflects an outdated record." However, the disclosure fails to provide support for such "testing...to determine if ...a caller's status reflects **an outdated record.**"

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Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims are 47-49 rejected under 35 U.S.C. 103(a) as being unpatentable over Barger et al. (US 4,071,698, hereinafter "Barger") in view of Gordon et al. (US 4,763,191, hereinafter "Gordon").

Barger discloses a method for controlling voice-data communications, comprising the steps of:

cuing select remote terminal (audio program repeater prompts the push-button caller to enter responses; col. 6, lines 38-43; col. 11, lines 18-23);

selectively identifying said responsive signals as digital data signals (a push-button caller can enter an account number, credit card number, selection number; Figs. 4 and 6; col. 4, line 64; col. 8, lines 60-65; col. 9, lines 40-42; col. 11, lines 18-25) or digital control signals (a push-button caller can key in a specific code for operator assistance; col. 9, lines 38-40), or both (an invalid account number entered by the caller causes the call to be transferred to an operator for assistance; col. 9, lines 40-45), said responsive signals including signals indicative of a customer card number (credit card number can be used as an account number; col. 2, lines 55-57; col. 4, lines 63-64; col. 8, lines 60-65);

testing (credit verification takes place based on the credit card number; col. 8, lines 60-65);

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transferring a call to an attended terminal (callers whose credit cannot be validated or those determined to be freeloaders or those who key in a specified code requesting operator assistance are automatically connected with an attended terminal 39; col. 9, lines 42-45; col. 11, lines 34-36; col. 9, lines 38-40) and displaying (operator's terminal displays all the data for the customer's call including any historical and credit verification data retrieved from memory; col. 5, lines 29-37; col. 6, lines 3-9, 21-29).

Barger differs from the claims in that it does not specify receiving and recording caller number identification signals. However, Gordon teaches the well known use of caller number identification signals in a telephone ordering system for identifying callers and recording the caller number identifications signals for compiling the necessary delivery and charging information (col. 2, lines 48-64) such that it would have been obvious to an artisan of ordinary skill to incorporate the use of caller identification signals, as taught by Gordon, within the ordering system of Barger to provide additional identifying data for use in compiling the necessary delivery and charging information.

Response to Arguments

6. Applicant's arguments filed September 28, 2003 have been fully considered but they are not persuasive.

Regarding the rejection of claims 50-61 under 35 USC 112, first paragraph, Applicant points to the entry of a caller's telephone number as providing support. However, the claim language which is not supported by applicant's specification is "testing at least certain of said data entered...to determine if...a caller's status reflects an outdated record," the certain of said

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data being "data entered by said individual caller including two forms of distinct identification data including caller customer number plus one other form of identification." According to the specification, applicant's system allows a caller to confirm or supplement information which is stored in register 34 so that the system accommodates callers with outdated records (see page 23, lines 7-11). There is no description of any testing of identification data entered by the caller to determine if the caller's status reflects an outdated record.

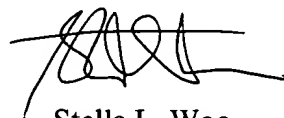
Applicant also points to page 14, line 8 as providing support for the testing. However, the test being performed is the testing of a consumable key number as to whether or not it has been previously used. There is no test which determines whether or not the caller's status reflects an outdated record.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stella L. Woo whose telephone number is (703) 305-4395. The examiner can normally be reached on Monday-Tuesday, Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (703) 305-4708. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.



Stella L. Woo
Primary Examiner
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